

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA

-against-

AFFIRMATION

05 Cr. 621 (KMK)

ALBERTO WILLIAM VILAR and
GARY ALAN TANAKA,

Defendants.

-----x

SUSAN C. WOLFE, an attorney duly admitted to practice law before this Court, affirms as follows:

1. I am a member of the firm of Hoffman & Pollok, attorneys for the defendant ALBERTO VILAR. I make this affirmation in support of his motions to suppress evidence seized pursuant to a search warrant executed on or about May 25, 2005 at the offices of Amerindo Investment Advisors, Inc., 399 Park Avenue, 22nd floor, New York, New York or, in the alternative, for a hearing; to suppress any and all post-arrest statements taken in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966) or, in the alternative, for a hearing; for leave to file additional motions based upon defendant's review of the voluminous discovery in this case, and for leave to join in the motions made by counsel for co-defendant Tanaka to the extent said motions are applicable to the defendant Vilar.

2. The facts necessary to these motions, including a summary of the indictment, the criminal complaints, the search warrant application, the search warrant, and the defendant's Declaration, are incorporated herein and made a part of this affirmation as if fully stated herein. Those facts and circumstances stated upon information and belief are based upon my

conversations with the government's attorney and other information gleaned in the course of my investigation of this case.

3. As set forth in the accompanying Memorandum of Law, all evidence seized from the Amerindo Offices, and all fruits and leads there from, should be suppressed, because the search warrant is overbroad and the vast majority of its provisions are unsupported by probable cause.

4. In addition, any and all post-arrest statements made by the defendant without the benefit of *Miranda* warnings should be suppressed or, in the alternative, a hearing should be held. The defendant's Declaration establishing his standing to move to suppress is attached to the Memorandum of Law as Exhibit E.

5. The defendant also seeks leave to file additional motions based upon his review of the voluminous discovery in this case, and leave to join in the motions made by counsel for co-defendant Tanaka to the extent said motions are applicable to the defendant Vilar.

WHEREFORE, for the reasons presented in the accompanying Memorandum of Law, your deponent prays for an order granting the defendant all of the relief enumerated in the Notice of Motion and requested herein and in the accompanying Memorandum of Law, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York
September 12, 2005

SUSAN C. WOLFE